

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By **CHAIRMAN BILL GLASER**, on February 7, 2003 at 3:00 P.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Sen. Bill Glaser, Chairman (R)
Sen. Bob Story Jr., Vice Chairman (R)
Sen. Jerry W. Black (R)
Sen. Mike Cooney (D)
Sen. Jim Elliott (D)
Sen. Royal Johnson (R)
Sen. Jeff Mangan (D)
Sen. Don Ryan (D)
Sen. Tom Zook (R)

Members Excused: Sen. Edward Butcher (R)

Members Absent: None.

Staff Present: Tari Elam, Committee Secretary
Connie Erickson, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 323, 2/4/2003; SB 303, 2/4/2003
Executive Action:

HEARING ON SB 323

Sponsor: SENATOR DUANE GRIMES

Proponents: Karl Ohs, Lieutenant Governor, State of Montana
Chuck Swysgood, Budget Director, Office of Budget & Program Planning
Amy Carlson, Analyst, Office of Budget & Program Planning
Kris Goss, Education Policy Assistant & Special Projects, Governor's Office

Opponents: Lance Melton, Montana School Boards Association (MTSBA)
Dave Puyear, Montana Rural Education Association (MREA)
Dan Zorn, Assistant Superintendent, Kalispell Schools
Todd Watkins, Business Manager, Kalispell Schools, *in absentia*
Darell Rud, Executive Director, School Administrators of Montana (SAM)
Jeff Weldon, Legal Counsel, State Superintendent of Public Instruction
Bryan Dunn, Superintendent, Great Falls
Kris Kuein, Superintendent, Highwood Public Schools
Eric Feaver, MEA-MFT

Informational Witnesses: Jeff Buska, Medicaid Bureau Chief, Health Policy & Services
Curt Nichols, Assistant Budget Director, Office of Budget & Program Planning

Opening Statement by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 0.7 - 11.7}

SENATOR DUANE GRIMES, SD 20, brought forward SB 323, a bill which revises school finance laws by increasing basic and total per-ANB, and changes the accounting method for employer contributions to retirement, social security, and unemployment insurance programs. SEN. GRIMES stated he brought this bill on behalf of the Governor's Office. He explained, under current accounting

methods state and county governments pay various employment costs associated with positions funded by federal dollars. These costs average to approximately fifteen percent (15%) of the total dollars received. What this means is for every dollar of federal money provided for education, the state and county are incurring an indirect cost for administering the money. He also indicated education is the only area where this occurs. **SEN. GRIMES** believes this is a bad accounting practice, which, again, does not occur with any other federally funded program administered through the state.

SEN. GRIMES explained during the last special session **HB 21** was passed which mandated all indirect costs associated with federal and private grants must be fully recovered. This is the precise issue addressed by **SB 323**. The bill requires fifteen percent (15%) of the money received be set aside to pay various mandatory employment costs. He said the measure is necessary at this time because the state anticipates increases in federal funding associated with the "No Child Left Behind Act." **SEN. GRIMES** provided the Committee with: 1) a graphic representation of the current situation projected through 2007 **EXHIBIT(eds27a01)**; and, 2) a graphic representation of employment costs associated with those dollars **EXHIBIT(eds27a02)**. He also explained that in return for this "good government" proposal, the state will increase the per-ANB schedules by two percent (2%) and one percent (1%) over the upcoming biennium.

SEN. GRIMES indicated there are amendments to the bill which address particular concerns associated with food services and to ensure local cooperatives between districts are not unintentionally penalized. He then outlined the underlying policy issues: a) should future federal dollars impose tax burdens on Montana citizens; b) should county and state funds be utilized to pay retirement costs associated with food service programs; and, c) should **HB 124** funds evolve into what is essentially a school funding tool versus a preauthorized block grant which is a tax replacement.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 11.8 - 31}

{Tape: 1; Side: B; Approx. Time Counter: 1.8 - 12.1}

Karl Ohs, Lieutenant Governor, State of Montana, stated he is responsible for coordinating education issues in the Governor's Office. He believes **SB 323** is a responsible solution to concerns associated with the desire to provide schools with an increase in per-ANB. Due to present budget constraints, the office had to evaluate all possible revenue sources. **Lt. Governor Ohs**

expressed his office's awareness of concerns raised by members of the education community and believes those concerns have been addressed by the proposed amendments.

Chuck Swysgood, Budget Director, Office of Budget & Program Planning, stated his office supports **SB 323**. He explained his own office experienced a great deal of difficulty--confronted with the present economic situation--trying to address funding for K-12. He too noted the concerns of the education community and trusts they will be addressed by the amendments. He stated the bill attempts to address the loss of revenue associated with federal programs by increasing per-ANB, however, he acknowledges there is some loss of spending authority. **Mr. Swyzgood** also believes it is unfair to local taxpayers and the state's general fund to continue paying retirement costs associated with federal programs. Further, the state simply does not have the money to do so. He stated the present approach attempts to hold schools as harmless as possible by keeping them at the 2002 level of funding.

Amy Carlson, Analyst, Office of Budget & Program Planning, provided the Committee with a by component analysis of **SB 323 EXHIBIT (eds27a03)**. She briefly explained each of the charts provided.

Kris Goss, Education Policy Assistant & Special Projects, Governor's Office, testified his office was charged with finding a solution to the funding crisis. He believes this bill provides the answer. He noted there has been a continuing dialogue between the education community and his office. He explained his office has addressed questions regarding present law, both state and federal. He also provided the Committee with an e-mail indicating this legislation does not violate federal "supplement-not-supplant" requirements **EXHIBIT (eds27a04)**.

Opponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 12.3 - 31}

{Tape: 2; Side: A; Approx. Time Counter: 0.1 - 15.5}

Lance Melton, MTSBA, provided the Committee with information compiled by him regarding "Comparisons of State Funding, Total and By Source," **EXHIBIT (eds27a05)**, and "Estimated Financial Impact of Proposal ..." **EXHIBIT (eds27a06)**. He conveyed his appreciation to the Governor's Office for extensive dialogue, but noted his organization cannot support the bill. **Mr. Melton** explained most individuals in the field, while they may not fully understand the complexity of the legislation, do understand how many actual dollars will be cut from their budgets. He noted

this bill will present a real loss to local schools. The resulting cuts--arising from decreased funding and increased taxes--will effect how education is delivered in the classroom. He explained each of the programs presently being funded by the federal government are in reality underfunded according to original guarantees, and he wonders how these programs can possibly survive additional cuts.

Mr. Melton also provided the Committee with a spreadsheet entitled "Student Achievement in Montana" **EXHIBIT (eds27a07)**, noting the effects of the present bill will undermine the increased aid associated with "No Child Left Behind." He stated--given the nature of the present federal administration--it is highly unlikely there will be any increase in federal funding. Also, as he previously explained, the federal government has consistently imposed mandatory programs with assurances of funding, but, for which, actual receipts amount to approximately forty percent (40%). He does not believe this trend will change. He outlined the information contained in the spreadsheet, noting Montana's favorable standing on nationalized testing, but stated under "No Child Left Behind" the state will need to achieve 100% proficiency. He stated federal money for this should be dedicated toward achieving the 100% goal and not to lowering property taxes. He also stated now is not the time to take away additional funds from local control.

Dave Puyear, Executive Director, MREA, stated his organization reluctantly opposes the Governor and **SEN. GRIMES'** proposal. Although he has great appreciation for the Senator, the Governor, and members of her staff, he believes this bill will have a very detrimental effect. He relayed a story of his own experience with the small things in life, noting it is often these events which make the biggest difference. This bill, he said, will harm schools by the little things contained within its language. At the present time schools are under tremendous pressure to provide services; this type of legislation increases that pressure exponentially. He also indicated many people will see the effects of the bill as a sideways maneuver that is not respectful of all past negotiations.

Dan Zorn, Assistant Superintendent, Kalispell Schools, submitted written testimony **EXHIBIT (eds27a08)**. **Mr. Zorn** also provided testimony on behalf of **Todd Watkins**.

Todd Watkins, Business Manager, Kalispell Schools, in absentia, submitted written testimony **EXHIBIT (eds27a09)**.

Darrell Rud, Executive Director, School Administrators of Montana, noted he has been an active participant in discussions

held around the state on the topic of school funding concerns. He urged Committee members to evaluate the effects of the retirement portion of this bill on their own communities. He also explained the intent of "No Child Left Behind" legislation was to assist the most disadvantaged children of this nation. In order to effectively close the gap between those children who are succeeding and those who are not, Montana schools need the full funding provided by the federal government. He respectfully requested the Committee oppose **SB 323**.

Jeff Weldon, Legal Counsel, State Superintendent of Public

Instruction, testified, although his organization supports 2/1 increases for per-ANB allocations, they are not able to support the legislation as written with regard to retirement taxes and so forth. He stated the Superintendent believes the taxation off-sets will exceed proposed increases; thus, resulting in additional levies being necessary.

Bryan Dunn, Superintendent, Great Falls, provided an example of how this bill will effect their local taxes. Assuming the bill passes, next year they will need a levy of \$594,792 and cuts of \$225,000; if the retirement section of the bill is approved, an additional \$300,000 will be needed. This is a total of 1.2 million dollars. He noted in his district approximately forty percent (40%) of the children qualify for free or reduced lunches, so an additional levy is truly a big concern. **Mr. Dunn** stated the second year they will need a levy of \$921,497 and cuts of \$1,100,000; if the retirement section is approved, an additional \$310,000 will be needed. A \$2.3 million loss. He does not see this as a change in accounting methods, he sees this as a real loss to local programs, with real impacts on local children. He sees this as a loss of reading tutors, special education support, and other services.

Kris Kuein, Superintendent, Highwood Public Schools, testified, as a school district which is neither growing nor shrinking, costs of education are increasing while his budget remains frozen. He noted this year his district has fourteen teachers; if this bill passes, next year he will have thirteen. The reality of his situation is the Board will have to decide in which area will they no longer be accredited. They have already combined classes at the elementary level and they do not know where else they can possibly make cuts.

Eric Feaver, MEA-MFT, stated the testimony of his colleagues was exemplary. He does not believe this is a good bill. He does not believe the method currently used for paying retirement costs is a bad accounting practice, and it is not a loophole in an

otherwise good system. **Mr. Feaver** stated if we are between the proverbial rock and a hard spot, the answer is not this bill.

Informational Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 15.7 - 16.9}

Jeff Buska, Medicaid Bureau Chief, Health Policy & Services Division, stated he was present to answer any questions Committee members might have regarding refinancing efforts currently being pursued with the Office Public Instruction.

Mr. Buska provided the Committee with a summary of how **OPI** and **DPHHS** are coordinating efforts for Medicaid Match Dollars. **SEE LATE EXHIBIT (eds27a12)**.

Curt Nichols, Assistant Budget Director, Office of Budget and Program Planning, stated he was present to answer any questions the Committee might have regarding budget projections.

Questions from Committee Members and Responses:

{Tape: 2; Side: A; Approx. Time Counter: 17 - 31}

{Tape: 2; Side: B; Approx. Time Counter: 2.4 - 12.7}

SENATOR JIM ELLIOTT inquired of **Mr. Swysgood**, a representative of the Governor's budget office, if the official position of his office is that K-12 education is currently adequately funded. **Mr. Swysgood** replied the office has not addressed that particular question with this bill. What they have said, is this is an attempt to keep K-12 as whole as possible in the current fiscal climate. **SEN. ELLIOTT** asked, if no opinion has been formed, why then would the office want to provide any increase. **Mr. Swysgood** replied he believes everyone agrees K-12, as well as higher education, could use more funding. However, at the present time, there is no money to provide more. He stated he has no idea from where additional money would come at this time, so they have tried to address some concerns within the realm of the revenue they have available. He continued, stating if this is not satisfactory then it is the legislature's responsibility to reevaluate present allocations. **SEN. ELLIOTT** stated, in his opinion, a policy decision has been made to not find additional funds. **Mr. Swysgood** replied a policy decision was made to live within the revenues coming into the state at the present time.

SEN. ELLIOTT stated he understood the position of the Governor's office, however he continues to be concerned by long-term effects of similar decisions. He also expressed his thoughts regarding

declining opportunities in the state, and gave an example of how one particular city is addressing these same concerns. He stated he believes if education continues being underfunded in Montana, there will be no possibility of attracting viable business concerns to the state.

SENATOR JEFF MANGAN, referring to the last page of **Ms. Carlson's** hand-out [see, EXHIBIT 3] and testimony provided by various opponents, asked if the money identified is certain, or potentially may be more or less. **Ms. Carlson** indicated, according to the most recent information she had available, the figure will most likely flex upward. This is the reason for the additional projection of \$10 million. **SEN. MANGAN** asked if **Ms. Carlson** was comfortable with the \$23.4 million and \$27.9 million as fairly stable. **Ms. Carlson** replied in the affirmative. **SEN. MANGAN** also inquired about the \$8 million potential medicaid match dollars.

SEN. MANGAN asked **Mr. Buska** what steps have been taken by his office to ensure the Medicaid match dollars. **Mr. Buska** indicated schools are presently providing health care services to some students. For example, speech therapy, physical therapy, occupational therapy, or private duty nurses. Medicaid currently pays approximately \$1 million for these services. Schools are currently spending several million dollars for special education services, and many do not bill Public Health for these health care costs. They qualify for match dollars because they are using tax dollars to pay for those services without reimbursement. **SEN. MANGAN** inquired whether match dollars must be dedicated to the provision of various health services, or is it possible to spend the money in another manner. **Mr. Buska** replied the money is for those services being provided. Further, since the state is looking toward expanding services offered--for example, for a student who needs a full-time attendant while in school--the medical component of that service should be covered. **SEN. MANGAN** asked how close the office is to realizing this goal. **Mr. Buska** stated his office has an approved accounting change with the Center for Medicaid & Medicare Services; has developed a memorandum of understanding with **OPI** with regard to certifying the match; are working on the processes schools will use to document services and bill for them; and, are preparing a "state plan" which must be submitted to the federal government.

SEN. MANGAN asked **Mr. Melton** how comfortable he was with the numbers provided by **Ms. Carlson**. **Mr. Melton** stated he expects the \$23.4 million will stay the same. However, he explained, federal funding for fiscal year 2003 has not yet been received by the state, and the President's budget for fiscal year 2004 has just been released. He does not believe there will be additional

funding beyond the budget. In fact, he believes the House will not go beyond the current budget request, which is billions of dollars below what was authorized for the "No Child Left Behind Act."

SENATOR DON RYAN inquired about **Mr. Goss'** official position. **Mr. Goss** indicated he is the educational advisor to the Governor and Lieutenant Governor. **SEN. RYAN** asked if in that capacity he is primarily responsible for financial issues, or education in general. **Mr. Goss** indicated, as a member of the budget office, he is primarily responsible for the financial aspects of K-12 education. **SEN. RYAN** asked whether **Mr. Goss** was familiar with information contained in the "Student Achievement in Montana" hand-out provided by **Mr. Melton** (see, EXHIBIT 7). Referring to the proficiency figures and the goal of 100% under "No Child Left Behind," and to opposition testimony indicating numerous cuts will be necessary, **SEN. RYAN** asked what plans the Governor's office has in place to achieve that goal. **Mr. Goss** indicated it is necessary to weigh the analysis of the testimony in support against the analysis of those in opposition. He believes most specialists will still be in place. He stated the Governor has maintained an active role in efforts being put forth by **OPI** to ensure academic progress is being made each year. He also stated the Governor has been actively involved with Superintendent McCulloch and the education community to ensure that every student in Montana is achieving. These efforts extend to those students who are receiving free or reduced lunch and those who live in urban or rural areas. **SEN. RYAN** asked if **Mr. Goss** believed taking away fifteen percent (15%) of money that would be available in the classroom is an effective way to accomplish the goal. **Mr. Goss** responded he believes the 2/1 increases, coupled with the increases in Medicaid funding, will mitigate the fifteen percent (15%) reduction. **SEN. RYAN** asked whether **Mr. Goss** believes every child can reach proficiency. **Mr. Goss** replied we need to insure we are allowing every child to achieve proficiency and that no child falls through the cracks. He believes with proper instruction and proper guidance we can ensure proficiency for every child. **SEN. RYAN** expressed concern with taking away necessary specialists from those children in greatest need, while trying to achieve the goal of 100% proficiency. **SEN. RYAN** then asked **Mr. Goss** which districts asked for relief from their retirement obligations. **Mr. Goss** replied the Governor's Public School Advisory Council did not address this issue during recent public hearings. **SEN. RYAN** inquired, in the absence of the public hearings, have any districts come forward asking for relief from retirement obligations. **Mr. Goss** replied to his knowledge no district has requested such relief.

SENATOR BOB STORY requested **Mr. Puyear** contact **Mr. Kuein** and ask that he provide the Committee with a break-down of federal and state funding as provided by other superintendents. **Mr. Puyear** indicated he would do so.

Closing by Sponsor:

{Tape: 2; Side: B; Approx. Time Counter: 12.8 - 16.1}

SEN. GRIMES indicated his uncertainty regarding various testimony, noting he would like the Committee to evaluate congressional intent. He also conveyed that he is extraordinarily sympathetic to those individuals who brought forward information which suggests a disparity in the outcome. He does, however, believe this is an opportune time to eliminate this taxpayer subsidy. He believes the dialogue already begun should continue with the guidance of the Committee in order to achieve some form of agreement on the numbers. He would like to have some confirmation of the amount of federal dollars that may or may not be coming to the state. He stated the Chairman's suggestion of a sub-committee being appointed to further investigate the underlying issues is a very wise decision. **SEN. GRIMES** expressed appreciation for the various parties who have contributed to the process thus far. He also stated a component of the fiduciary duty owed the people by the legislature is to ensure indirect costs associated with federal programs not be borne by citizens.

HEARING ON SB 303

Sponsor: **SENATOR BILL GLASER**

Proponents: **Lance Melton, MTSBA**
Dave Puyear, MREA
Darrell Rudd, SAM

Opponents: **NONE**

Informational Witnesses: **NONE**

Opening Statement by Sponsor:

{Tape: 2; Side: B; Approx. Time Counter: 17.8 - 27.5}

SENATOR BILL GLASER, SD 8, Yellowstone County, brought forward a bill which revises school funding laws. He explained the bill:
a)provides an inflationary adjuster for base funding;

b)coordinates funding from the state for school facility energy costs; c) addresses reappropriation practices; d) changes the extraordinary trip mechanism; and, d)allows districts to average ANB in the event of increasing and decreasing enrollments. **SEN. GLASER** noted the bill originated during a more positive economic time; accordingly, its' scope may be more lofty than present circumstances will allow. He briefly outlined the goal of the legislation, which, together with three other bills, proposes to change the school funding process in its entirety.

Proponents' Testimony:

{Tape: 2; Side: B; Approx. Time Counter: 27.6 - 32}

{Tape: 3; Side: A; Approx. Time Counter: 0.2 - 13.5}

Lance Melton, MTSBA, conveyed his organization's strong support of **SB 303**. He noted his appreciation for **SEN. GLASER's** underlying goals in the legislation, noting, with particularity, one of Montana's highest costs in education is energy **EXHIBIT (eds27a10)**. **Mr. Melton** outlined the various aspects of educational funding and stated schools are being as efficient as possible in all areas. He indicated the only problem with this bill, as written, is its failure to average per-ANB in accordance with recommendations by the Governor's School Advisory Council and the Interim Education Committee. He requested the Committee amend the bill on the per-ANB issue and seek resources for funding the bill.

Dave Puyear, MREA, stated his organization stands in strong support of this measure. He also expressed his appreciation for **SEN. GLASER**, and agreed some aspects of the bill may not be attainable at this time. His community believes the simple assertion that these types of changes are desirable indicates to them they are being heard and this body cares about kids and education.

Darrell Rudd, SAM, expressed his organization's support for the bill. With the federal administration's commitment to education being questioned at times, and although funding for some programs is increasing, the reality is funding is inadequate. **Mr. Rudd** explained how many increases presently being offered fall far short of original promises. With this in mind, he indicated the state will need to ensure Montana's children are protected. **Mr. Rudd** also provided the Committee with an outline of his testimony, which includes President Bush's allocated budget for education **EXHIBIT (eds27a11)**.

Madalyn Quinlan, Chief of Staff, State Superintendent of Public Instruction, conveyed her agency's support of **SB 303**. She also

offered the support of her office should the sub-committee so desire.

Mike Barrett, self, indicated, while he has mixed emotions regarding the bill, generally, he supports the energy conservation component of the bill. He briefly discussed energy issues as a part of human behavior. He also stated we should try something different.

Questions from Committee Members and Responses:

NO QUESTIONS WERE POSED ON THIS BILL.

Closing by Sponsor:

{Tape: 3; Side: A; Approx. Time Counter: 13.9 - 14.4}

SEN. GLASER indicated the task before this Committee is immense. He trusts members of the Committee are prepared.

SENATOR ROYAL JOHNSON inquired whether there is a fiscal note for **SB 303**. **CHAIRMAN GLASER** indicated the fiscal note would be available next Wednesday.

SEN. MANGAN inquired whether **SB 303** and **SB 323** will be placed in the same sub-committee as **SB 90** and **SB 92**. **CHAIRMAN GLASER** replied in the affirmative, noting the sub-committee will consist of **SENS. STORY, RYAN, and BLACK**. He requested the sub-committee members meet with **OPI**, the Governor's Budget Office, and any other community members they believe will be helpful.

SEN. RYAN, referring to information contained in **EXHIBIT 7**, asked **Dave Puyear** what is the optimum district size? **Mr. Puyear** indicated his organization will put together a packet of information currently available on the issue.

ADJOURNMENT

Adjournment: 5:30 P.M.

SEN. BILL GLASER, Chairman

TARI ELAM, Secretary

BG/TE

EXHIBIT (eds27aad)